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7 US NATIONAL BANK ASSOCIATION,
8 Plaintiff,
9 v.
10 SUSANNA ROUX VAN-GREUNEN, et al.,
11 Defendants.

Case No. [25-cv-04123-SK](#)

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**REFERRAL FOR REASSIGNMENT
AND REPORT AND
RECOMMENDATION FOR REMAND**

Regarding Docket Nos. 1, 2, 3

On May 13, 2025, Defendants Susanna Roux Van-Greunen and Ronald White, proceeding *pro se*, removed this action from Contra Costa County Superior Court and filed applications to proceed *in forma pauperis* (“IFP”). The parties have not consented to the jurisdiction of a magistrate judge under 28 U.S.C. § 636(c) and therefore the Court does not have authority to make a dispositive ruling in this case. Accordingly, the Court orders that this case be REASSIGNED to a district judge. Moreover, for the reasons set forth below, the Court RECOMMENDS that the District Court REMAND this action to state court.

The Court may authorize a plaintiff to file an action in federal court without prepayment of fees or security if the plaintiff submits an affidavit showing that he or she is unable to pay such fees or give security therefor. 28 U.S.C. § 1915(a). The Court finds that Defendants have demonstrated that they are unable to pay the filing fee and, thus, GRANTS their applications for IFP. However, the *in forma pauperis* statute provides that the Court shall dismiss the case if, *inter alia*, the Complaint is frivolous or malicious, or fails to state a claim on which relief may be granted. 28 U.S.C. § 1915(e)(2). Moreover, the Court has an independent duty to ascertain its jurisdiction and may remand a case *sua sponte* for lack of subject matter jurisdiction. *See* 28 U.S.C. § 1447(c); *Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992). Federal courts are courts of limited jurisdiction. *See, e.g., Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377

1 (1994). Accordingly, the burden of establishing federal jurisdiction for purposes of removal is on
2 the party seeking removal, and the removal statute is strictly construed against removal
3 jurisdiction. *Valdez v. Allstate Ins. Co.*, 372 F.3d 1115, 1117 (9th Cir. 2004); *see also Gaus v.*
4 *Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992). “Federal jurisdiction must be rejected if there is
5 any doubt as to the right of removal in the first instance.” *Gaus*, 980 F.2d at 566.

6 Here, Plaintiff U.S. Bank National Association as Trustee for Angel Oak Mortgage Trust I
7 2019-2, Mortgage Backed Certificates, Series 2019-2 (“Plaintiff”) filed an unlawful detainer
8 action against Defendants in state court to evict them from a property located in Antioch,
9 California. (Dkt. No. 1.) Defendants argue in their notice of removal that the Complaint for
10 unlawful detainer presents federal questions. (*Id.*) According to Defendants, the Protecting
11 Tenants at Foreclosure Act of 2009 (“PTFA”) act preempts any state law to evict them and creates
12 a federal claim for ejectment. (*Id.*)

13 However, the Court does not have federal question or diversity jurisdiction over this
14 matter. “The presence or absence of federal-question jurisdiction is governed by the ‘well-pleaded
15 complaint rule.’” *Caterpillar Inc. v. Williams*, 482 U.S. 382, 392 (1987). The well-pleaded
16 complaint rule recognizes that the plaintiff is the master of his or her claim. “[H]e or she may
17 avoid federal jurisdiction by exclusive reliance on state law.” *Id.* Thus, under the well-pleaded
18 complaint rule, federal-question jurisdiction arises where the “complaint establishes either that
19 federal law creates the cause of action or that the plaintiff’s right to relief necessarily depends on
20 resolution of a substantial question of federal law.” *Franchise Tax Bd.*, 463 U.S. 1, 27-28 (1983).

21 This is an unlawful detainer action, which is purely a creature of California law. Thus,
22 federal law does not create the cause of action. *Wells Fargo Bank v. Lapeen*, 2011 WL 2194117,
23 at *3 (N.D. Cal. June 6, 2011); *Wescom Credit Union v. Dudley*, 2010 WL 4916578, at *2 (C.D.
24 Cal. Nov. 22, 2010). Moreover, the Court concludes that the claim will not necessarily depend
25 upon the resolution of a substantial question of federal law. Furthermore, a court cannot exercise
26 removal jurisdiction on the ground that the complaint gives rise to a potential or an anticipated
27 defense that might raise a federal question, even if the defense is the only question truly at issue in
28 the case. *Franchise Tax Board*, 463 U.S. at 10, 14; *see also Caterpillar*, 482 U.S. at 393 (“[I]t is

1 now settled law that a case may *not* be removed to federal court on the basis of a federal defense,
2 including the defense of pre-emption, even if the defense is anticipated in the plaintiff's complaint,
3 and even if both parties concede that the federal defense is the only question truly at issue.”)
4 (emphasis in original).

5 In addition, with respect to the PTFA, this statute expired at the end of 2014, years before
6 Plaintiff moved to evict Defendants. *See Fairview Tasman LLC v. Young*, 2016 WL 199060, at *2
7 (N.D. Cal. Jan. 18, 2016); *Borquist v. Nino*, 2017 WL 386299, at *1 (N.D. Cal. Jan. 27, 2017).
8 Also, the Ninth Circuit made clear that the PTFA did not create a private right of action. *Logan v.*
9 *U.S. Bank Nat'l Ass'n*, 722 F.3d 1163, 1169, 1173 (9th Cir. 2013). Therefore, there cannot be any
10 federal claim for ejectment under the PTFA. Accordingly, there is no federal question
11 jurisdiction.

12 The Court also determines that it does not have diversity jurisdiction over this matter. “In
13 unlawful detainer actions, the right to possession is contested, not title to the property, and
14 plaintiffs may collect only damages that are incident to that unlawful possession.” *Federal Home*
15 *Loan Mortgage Corp. v. Pulido*, 2012 WL 540554 (N.D. Cal. Feb. 17, 2012). Although the
16 Plaintiff does not allege the amount of damages in the Complaint, it is unlikely that the amount in
17 controversy exceeds the jurisdictional amount of \$75,000. Defendants have the burden of
18 showing with legal certainty that the amount in controversy exceeds \$75,000. *See Lowdermilk v.*
19 *U.S. Bank National Ass'n*, 479 F.3d 994, 1000 (9th Cir. 2007)). Defendants have not done so
20 here.

21 Diversity jurisdiction is lacking for another independent reason. 28 U.S.C. § 1441(b)
22 prohibits removal where a defendant in the case is a citizen of the state in which the plaintiff
23 originally brought the action. *See Spencer v. U.S. Dist. Ct. for Northern Dist. (Altec Indus., Inc.)*,
24 393 F.3d 86, 870 (9th Cir. 2004). Once any “local defendant (a citizen of the forum state) has
25 been served, the action cannot be removed by that defendant, or by any other defendant.”
26 *Republic W. Ins. Co. v. Int'l Ins. Co.*, 765 F. Supp. 628, 629 (N.D. Cal. 1991). Here, the
27 complaint alleges that Defendants reside at the subject property, located in Contra Costa County,
28 California, and therefore are citizens of California. (Dkt. No. 1.) Because Defendants are citizens

1 of California, they are precluded from removing this action on the grounds of diversity.

2 Therefore, the Court lacks subject matter jurisdiction to hear this matter. The Court thus
3 recommends that this action be REMANDED to the Contra Costa County Superior Court. Any
4 party may object to this recommendation within fourteen days of the filing date of this order. *See*
5 Fed. R. Civ. P. 72(b).

6 **IT IS SO ORDERED.**

7 Dated: May 15, 2025

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9 SALLIE KIM
10 United States Magistrate Judge

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United States District Court
Northern District of California